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ADMINISTRATIVE ORDER

CHS 2002- 04

May 21, 2002

Establishing a Consumer Council to Advise the Cabinet on the Development and Implementation of an Olmstead Compliance and Systems Change Plan

WHEREAS, the United States Supreme Court ruled in its L.C. v. Olmstead decision that it is a violation of Title II of the Americans with Disabilities Act (ADA) for states to discriminate against people with disabilities by providing services in institutions when the individuals could be served more appropriately in a community-based setting, and that the ADA requires placement of people with disabilities in the community if:

1. The State's treatment professionals have determined that community placement is appropriate;
2. Transfer from the institution is not opposed by the person; and
3. Placement can be reasonably accommodated taking into account the resources available to the state and the needs of others with disabilities; and

WHEREAS, the court further stated that a State could establish compliance with Title II of the ADA if it demonstrates that it has:



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1. A comprehensive and effectively working plan for placing qualified persons with disabilities in less restrictive settings; and
2. A waiting list for community-based services that moves at a reasonable pace not controlled by the State's endeavors to keep its institutions fully populated; and

WHEREAS, The Secretary of the Cabinet for Health Services did issue, on April 10, 2000, an Administrative Order to establish the Olmstead State Planning Committee to coordinate the development and implementation of a comprehensive, effectively working plan in compliance with the requirements of the Olmstead decision; and

WHEREAS, the Secretary of the Cabinet for Health Services serves as chair of the Kentucky Commission on Services and Supports for Individuals with Mental Retardation and Other Developmental Disabilities as created by KRS 210.570 to 210.577; and

WHEREAS, the Secretary of the Cabinet for Health Services serves as co-chair of the Kentucky Commission on Services and Supports for Individuals with Mental Illness, Alcohol and Other Drug Abuse Disorders and Dual Diagnoses as created by KRS 210.500 to 210.509; and

WHEREAS, the Secretary of the Cabinet for Health Services is designated as one of twenty-seven members of the Legislative Research Commission's 2000-2002 Long Term Care Quality Task Force;

WHEREAS, KRS 194A.170 authorizes the Secretary of the Cabinet for Health Services to create citizens panels for the purpose of supporting the operations of the cabinet.

NOW, THEREFORE, I, Marcia R. Morgan, Secretary of the Cabinet for Health Services, pursuant to authority vested in me by KRS 194A.170, do hereby establish the Kentucky Olmstead State Consumer Advisory Council with the following composition and responsibilities:

1. The Advisory Council shall consist of the following representative members reflecting a statewide array of consumers and advocates for consumers to include the following:

- (a) Two (2) family members from one (1) of five (5) different regions of Kentucky who are members of a family with a child with mental retardation or other developmental disabilities;
- (b) Two (2) members from one (1) of five (5) different regions of Kentucky who are members of a family with an adult with mental retardation or other developmental disabilities;
- (c) Two (2) persons from one (1) of five (5) different regions of Kentucky with mental retardation or other developmental disabilities;
- (d) One (1) family member of a person with spinal cord injury;
- (e) One (1) family member of an individual client or recipient of services of the Cabinet's Acquired Brain Injury Waiver program;
- (f) Two (2) members representing young adults with disabilities, age eighteen (18) to twenty-one (21) who are in transition from youth to adulthood, one (1) a family member, and one (1) a young adult transitioning into adulthood;
- (g) Two (2) members of a seniors advocacy group representing adults with physical disabilities;
- (h) One (1) member of the Legislative Research Commission's Special Advisory Commission of Senior Citizens' Subcommittee on Health and Human Services;

- (i) One (1) representative of the American Association of Retired Persons (AARP);
- (j) Two (2) residents of an independent living center;
- (k) One (1) representative of the Institute on Aging as defined under KRS 194A.090(3);
- (l) One (1) member of a chapter of the Kentucky Alzheimer's Disease and Related Disease Association as defined under KRS 194A.603;
- (m) One (1) member of the consumer group for the Kentucky Developmental Disabilities Council;
- (n) One (1) individual client or recipient of services under the Cabinet's HOMECARE waiver program, or a member of the client or recipient's family;
- (o) Two (2) clients or recipients of services under the Cabinet's Home and Community Based Waiver, or the client or recipient's family member;
- (p) One (1) individual client or recipient of services under the Cabinet's Personal Care Attendant waiver program, or the client or recipient's family member;
- (q) Two (2) persons from one (1) of five (5) different regions of Kentucky who are adult consumers of mental health or substance abuse services or those persons' family members;
- (r) Two (2) persons from one (1) of five (5) different regions of Kentucky who are family members of a child with severe emotional disabilities;
- (s) One (1) member of a family with a child or youth with autism;
- (t) Six (6) consumers or consumer representatives who were members of the 2000-2001 Olmstead Planning Committee.

2. The Cabinet for Health Services, Office of Program Support will facilitate all activities related to the Kentucky Olmstead State Consumer Advisory Council, and will provide support for the Council to maintain a web site for all activities and communications.

3. The Advisory Council shall be responsible for the following activities:

- (a) Promote the accurate and timely access to consumers about the Commonwealth's planning efforts by sharing information with respective consumer and advocacy organizations throughout the state via the organization's newsletters, meetings, or community forums;
- (b) Advise the Cabinet for Health Services about issues, concerns or barriers for persons with disabilities, to enhance the Cabinet's cultural sensitivity, diversity and planning efforts throughout the long term planning initiatives for Olmstead compliance and implementation;
- (c) Advise the Cabinet for Health Services regarding the needs of different communities and populations for needed services and supports for individuals of all ages with all types of disabilities;
- (d) Advise the Cabinet for Health Services regarding Olmstead Plan recommendations, time frames for implementation strategies; and follow up activities;
- (e) Serve as a liaison to local communities and regional areas to promote awareness of the issues for persons with disabilities.

4. Members of the Advisory Council shall meet at least once every quarter and as scheduled by the Secretary and as requested in writing by a majority of the Council members.

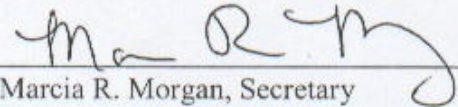
5. Advisory Council members shall be representative of five (5) distinct regions of the

Commonwealth: east, west, north, south and central, and are to be selected by the Secretary from a pool of nominees from those geographic regions. Members shall serve for a term of two (2) years and may serve until their successors are appointed. Members may be re-appointed by the Secretary for an additional two (2) year term. Terms shall begin thirty (30) days after selection from the list of nominees and within forty-five (45) days of the effective date of this administrative order.

6. The Kentucky Olmstead State Consumer Advisory Council shall exist until such time as either a) entry of a separate Administrative Order on the status of the Council, or b) as other state and federal laws and regulations mandate revision of this Administrative Order.

7. This Administrative Order supercedes Administrative Order CHS 2002-01 dated January 18, 2002.

Effective this 21 day of May, 2002.



Marcia R. Morgan, Secretary